



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 19-051

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

1. Statutory Authority

The proposed rule meets the standard required to submit a petition under s. 227.26 (4), Stats., for expedited repeal of an unauthorized rule. An unauthorized rule is a rule for which an agency lacks the authority to promulgate the rule due to the repeal or amendment of the law that previously authorized its promulgation.

In this case, the rule repeals s. NR 60.02 (2) and (Note). Section NR 60.02 (2) defines “council” to mean “the inland lakes protection and rehabilitation council created by s. 15.347 (8), Stats.”. The referenced statutory subsection was repealed by the 1997-98 Biennial Budget Act. [See 1997 Wisconsin Act 27, SEC. 67m.]

2. Form, Style and Placement in Administrative Code

a. In the statutory authority section of the rule summary, a brief explanation of the reasons for referencing ss. 33.16, 281.68, and 281.69, Stats., and chs. NR 190 and 191, Wis. Adm. Code, could be added.

b. In the rule summary’s listing of statutory authority, the citations to ss. 227.26 (4) (b) and 227.29 (1) (a), Stats., should be removed. Those provisions establish the expedited repeal process and require an annual report by each agency of unauthorized rules, respectively. They do not remove or confer rulemaking authority for the subject matter addressed in the proposed rule. [s. 1.02 (2m) (a), Manual.]